

1
2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 MARCEL D. THOMPSON,

Case No. 3:17-cv-00330-MMD-WGC

6 Petitioner,

ORDER

7 v.

8 ISIDRO BACA, *et al.*,

9 Respondents.

10 Petitioner Marcel D. Thompson filed an application to proceed *in forma pauperis*
11 (ECF No. 1) submitted with his petition for writ of *habeas corpus*. On September 30, 2019,
12 the Court stayed this matter pending completion of Ninth Circuit proceedings in Case No.
13 18-71374 and this matter was administratively closed until further order of the Court. (ECF
14 No. 20.) Respondents have now filed a suggestion of death on the record indicating that
15 Thompson died on April 15, 2021. (ECF No. 24.) The Nevada Department of Corrections'
16 ("NDOC") online records¹ confirm that Thompson is deceased.

17 The Court may entertain a state prisoner's petition for writ of habeas corpus only
18 on the ground that he is "in custody in violation of the Constitution or laws or treaties of
19 the United States." 28 U.S.C. § 2254(a). A petitioner's death renders the habeas petition
20 moot. *See Dove v. United States*, 423 U.S. 325 (1976) (per curiam) (dismissing petition
21 for a writ of certiorari from appellate decision in criminal proceedings upon petitioner's
22 death); *Farmer v. McDaniel*, 692 F.3d 1052 (9th Cir. 2012) (upon notice of petitioner's
23 death, appeal dismissed as moot and case remanded to district court to dismiss habeas
24 petition as moot); *Garceau v. Woodford*, 399 F.3d 1101 (9th Cir. 2005) ("Because
25 petitioner's death renders this case moot, the petition for a writ of habeas corpus should
26

27 ¹The Court takes judicial notice of Petitioner's current status as reported in the
28 NDOC's online records. The inmate search tool may be accessed by the public online at:
<https://ofdsearch.doc.nv.gov>

1 be dismissed as moot.”); *Griffey v. Lindsey*, 349 F.3d 1157 (9th Cir. 2003) (same).

2 Thompson’s death constitutes an end to his detention; thus, this action no longer
3 presents a live case or controversy. Accordingly, the petition challenging his allegedly
4 unconstitutional confinement is now moot.

5 It is therefore ordered that the Clerk of the Court is instructed to re-open this case.

6 It is further ordered that Petitioner Marcel D. Thompson’s petition for writ of habeas
7 corpus (ECF No. 1-1) is dismissed without prejudice as moot, on account of Thompson’s
8 death.

9 The Clerk of Court is directed to enter judgment accordingly and close this case.

10 DATED THIS 29th Day of April 2021.

11
12 

13 _____
14 MIRANDA M. DU
15 CHIEF UNITED STATES DISTRICT JUDGE
16
17
18
19
20
21
22
23
24
25
26
27
28